No. 45769-5-II

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

In re the Marriage of

AMY S. DEVARGAS
Appellant

And

JOSHUA D. KLEYMEYER
Respondent

ON REVIEW FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

BRIEF OF RESPONDENT

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I. INTRODUCTION

This is actually a straightforward case. In a two child family, the mother, custodial parent of both adolescent children, agrees to let the oldest child be integrated into the home of the father. The father files a modification petition, requesting that support be modified. After interstate jurisdictional issues are resolved, support and contempt issues are addressed in Washington state. After commissioner level hearings and revisions, a new level of support is determined, based on the father being involuntarily unemployed and the imputation of income to the mother. Income having been imputed to the mother, she is made responsible for a portion of the oldest child's post secondary educational expenses. She is made responsible for medical expenses she was obligated to pay and for travel expenses that were incurred and to which she did not contribute. The mother is thwarted in a revision attempt because her attorney failed to file a notice of withdrawal, a copy of an order is mailed by the court to the attorney instead of to the now pro se appellant.

II. ASSIGNMENTS OF ERROR

The Respondent generally denies the trial court made any errors.

Issues pertaining to Assignments of Error

1. If a parent is involuntarily unemployed, what is his support duty?

2. If a parent is involuntarily unemployed and receiving unemployment benefits, does Washington law nevertheless require that income be imputed to the obligor at his historic rate of pay?

3. If a parent's income is not imputed at his historical rate of pay and he receives unemployment benefits and some dividend income, does Washington law nevertheless require income to be imputed to the obligor according to census data?

4. If an obligor father is not requesting a downward deviation based on any section of the deviation statute, but is instead requesting the court apply a split custody formula established by case law, does the obligee mother have standing to raise the issue of the father's household income?

5. Where a mother requests a deviation on the additional children in her household, does she not have a statutory duty to report her economic circumstances, account for proceeds from a prior divorce settlement, her household income and the support she receives for the other children in the household?

6. If there is no downward deviation awarded to an obligor father but

rather the court applies the case law mandated formula for a split custody situation, is the court required to inquire into the funds in either or both households?

7. If a court imputes income to a parent, can it also order the parent to contribute to post-secondary support?

8. Can a parent who is voluntarily underemployed and who has failed to list all their assets be required to pay a proportional percentage of post secondary support?

9. If a Petitioner's motion for revision of a contempt order is untimely filed, can she seek to revive the motion in the context of support modification proceedings?

10. If a 2010 order did not forgive the mother's obligations for travel expenses, is she still obligated to pay if she has been found to be voluntarily underemployed?

11. Is a contempt order brought on orders as cited in the original motion for contempt erroneous?

12. Can a court deny attorney fees to a prevailing party in a contempt action?

13. Is a contempt action separate from a support modification and can

revision actions be maintained separately?

14. If an attorney does not enter a notice of withdrawal and subsequently enters an "amended" notice weeks later with the court procedure familiar pro se client failing to confirm entry of the withdrawal, are constitutional or equitable issues at play in addressing whether or not to ignore a strict filing deadline–i.e, can a strict statutorily defined filing deadline be ignored for equitable reasons?

15. Where a mother had indicated to the court that she is indigent but a post trial court newspaper article reveals that the mother is a partner in a thriving business whereas the Respondent has been involuntarily unemployed, should the court deny the mother's request for fees on appeal and instead order her to contribute to the Respondent's fees after receiving new evidence about the mother's financial status?

III. STATEMENT OF THE CASE

Additional facts in the record

In 2000, the Oregon court attributed income of $1900 to the Petitioner and $2358 to the Respondent. CP 219.

The October 18, 2001 Oregon Order makes the mother responsible for one

responsible for one half of the summer visit travel expenses, the father solely responsible for other travel expenses. CP 214, 215.

The 2010 Oregon order required the father to pay for travel expenses, it did not relieve the mother from providing the children for their visits. CP 136. The father sought to recover from the mother expenses for flights for which the children were not provided.

Mother omits that she has a college degree. CP 1165.

IV. ARGUMENT

A. INTRODUCTION

If as stated by the Appellant this case involves two appeals, the constitutional issues can be reached.

B. STANDARD OF REVIEW

The court had ample evidence upon which to base its rulings and orders,

there was no abuse of discretion , there being no erroneous view of the law of application of incorrect legal analysis. Discretion is abused only when it is exercised upon an untenable ground or is manifestly unreasonable. *In re Marriage of Healy*, 35 Wn. App. 402, 404 , 667 P.2d 114, review denied, 100 Wn.2d 1023 (1983).

An appeals court grants deference to the trial court's domestic relations decisions because (1) they involve emotional and financial interests that are best served by finality and de novo review may encourage appeals and (2) abuse of discretion is the proper standard of review when the trial court relies solely on documentary evidence in reaching its decision. *In re Parentage of Jannot*, 149 Wn.2d 123, 126-28, 65 P.3d 664 (2003).

C. THE COURT DID NOT VIOLATE THE CHILD SUPPORT STATUTE WHEN IT SET THE FATHER'S INCOME

The court finding the father involuntarily unemployed was not an abuse of discretion. If he had been involuntarily unemployed, he would not qualify for unemployment benefits . CP 1290, 1295. His letter of separation from his employer noted that he had not been released by his

physician to return to work CP 382, Ex A. Counsel for the Petitioner focuses on a sentence of the applicable statute regarding an "unemployable parent." This is an exercise in misdirection, there was never a claim that the Respondent was "unemployable." The correct focus, which was the focus of the court, is on the language "The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed." RCW 26.19.071 (6). The court herein chose not to impute income because it did not find the Respondent to be voluntarily unemployed or voluntarily under employed, it found him to be involuntarily unemployed. Petitioner cites the *Foley* case for the proposition that income should have been imputed to the Respondent. In *Foley* the court imputed income to Mr. Foley, a self employed contractor, based on his actual income plus the fact he was returning to work. *Foley* at 842 . This case is readily distinguishable– Mr. Foley was self-employed, he had not been terminated from employment and there was no evidence he received unemployment benefits. There was no evidence a physician had found him unable to work .

Petitioner states that "the statute presumes the unemployment is voluntary and requires that income be imputed at fulltime employment."

There is no such presumption in the statute.

When establishing the father's income based on his dividend income and his unemployment benefits, the court was not imputing income to the father, it accepted that he was involuntarily unemployed. The Petitioner's own Exhibit A attached to Petitioner's August 19, 2013 declaration, was a January 26, 2012 letter from the Respondent's then employer, Rand corporation, reading in part, "you confirmed that your physician has not released you to return to work and that you will not be ready to return to active employment in the near future. Therefore, we will proceed with the separation of your employment as previously communicated. " CP 574 The court could have set his income at zero, but because he had dividend income and unemployment benefits, it determined his gross monthly income per RCW 26.19.071 (3)Income sources included in gross monthly income (h) dividends and (p) unemployment benefits. This was perfectly "tenable."

D. THE TRIAL COURT DID NOT ERR WHEN IT DENIED THE MOTHER'S REQUESTED DEVIATION

It is within the trial court's discretion to grant or deny a deviation from

the standard child support calculation and, generally, trial courts are not reversed on such decisions. *Goodell v. Goodell*, 130 Wash.App. 381, 122 P.3d 929 (2005).

Petitioner misstates or mischaracterizes the operation of RCW 26.19.075 (1)(a)(i) and (ii) , which read "the court may deviate from the standard calculation after consideration of the following (i) Income of a new spouse or new domestic partner if the parent who is married to the new spouse or in a partnership with a new domestic partner is asking for a deviation based on any other reason. Income of a new spouse or new domestic partner is not, by itself, a sufficient reason for deviation (ii)Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of other adults in the household is not, by itself a sufficient reason for deviation."

The mother did not have standing to request deviation based on the father's household wealth. The way the statute operates, if the father had requested a deviation (impliedly a downward deviation), then the court could consider the income of his spouse.

The trial court was correctly following the statute in that it recognized that "Income of a new spouse or new domestic partner is not, by itself, a

sufficient reason for deviation." There was no showing that there was wealth accumulated by the Respondent from the income of the new spouse, per *Brandli v. Talley*, 98 Wn. App. 521, 525, 991 P2d 94, 97 (1999). And since there was no basis for the court to consider a deviation, there was no basis to consider the income of the spouse per *Brandli v. Talley,* , 98WnApp 521, 525, 991 P2d 94,978 (1999).

The Petitioner neglects to mention the resources the Respondent expended on behalf of the oldest child, who was relocated. Respondent paid $6650 toward the costs of relocation . CP 1161 Even though the child was relocated in March of 2012 he paid full support totaling $3640 through the Month of July, 2012. CP 1163,64. He paid travel costs, camp and swim fees for the relocated child. CP 1164 . He paid for SAT tutoring, exam fees, college application fees and registration fees totaling $2380. For her part, the Petitioner had income imputed to her in the 2010 and 2000 Oregon Modification orders. She had a live in boyfriend whose income was not disclosed, She received child support for 2 children from a prior relationship. She lived in a home purchased by her parents in May 2009. CP 1165, 66. The Petitioner made no showing that she had made any attempts to improve her income or job status(CP 1272) , even though

she has a college degree CP 1165.

The Petitioner produced no records that she paid a home mortgage, no true records that she was paying off family loans of $14,000 and $5,000. She did not account for how the proceeds were spent from the sale of a family home in Scotland. CP 1271, 1272.

The Petitioner cites the *Choate* case for a general proposition that the court must inquire as to "how all involved parents' circumstances affect the children's needs." Once again the Petitioner is taking a quote out of context to mischaracterize a court's holding. *Choate* quotes 26.19.075(1)(e)(iv), When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received and owed for all children shall be disclosed and considered." *Choate* at 143 Wn.App 241 and 242. The section in question is the one related to the whole family deviation. It does not relate to the sections for determining income . The Respondent's income is what it is. The Petitioner, on the other hand, can only justify a whole family deviation in the instance she herself is

obligated to pay support, which we would agree with, but she nevertheless needs to show what support she receives for the other children in her household and her record is incomplete on this account.

If the father was requesting a deviation, consideration of all his assets would be appropriate, as his household assets are to be disclosed. But, again, he was not requesting a deviation. Support is calculated based on net income, assets don't figure into this calculation. What would be significant would be if the Petitioner could argue that assets had increased since the Oregon court established support for two children at $910 per month. Perhaps that would then justify a court maintaining support at the same level, even though one child had been integrated into the Respondent's household.

The court did not fail to consider the two other children in DeVargas's household. Since this was an instance of the mother requesting a whole family deviation, the burden was on her to justify the deviation. The Petitioner's brief is silent on what amount of support she received for these children or what efforts she had made to receive support for these children. It is not up to the Respondent to in effect support the Petitioner's children from another relationship. The Petitioner is again silent on the

issue of why she had negligible income and income had to be imputed to her at a minimum wage rate. As far back as 2000, the Oregon court actually attributed income to her of $1900. CP 219. This is a factor that figures into the totality of the circumstances. The mother takes no responsibility for the support of the child that integrated into the Respondent's household. The mother omits to mention she has a college degree. CP 1165.

E. THE TRIAL COURT DID NOT ERR IN APPLYING THE ARVEY CALCULATION. THIS IS A CALCULATION BASED ON A SPLIT CUSTODY SITUATION.

In a split custody arrangement, each party should be viewed as both an obligor and an obligee. *Arvey* , 77 Wn. App. 817, page 823. The parties are on an equal footing. The *Arvey* court was faced with the following conundrum: "When the Legislature enacted Washington's child support statute, RCW 26.19, it did not establish a method for calculating child support when each parent has primary residential care of one or more of the children." *Arvey*, 77 Wn. App. 817, page 823. It was not a question of whether or not to deviate when there is a split custody situation by

applying the calculation method set out by the *Arvey* court. A court cannot choose to ignore the *Arvey* calculation, as it can when it for instance does not give a residential credit to a parent who has a child more than 90 overnights a year. The *Arvey* court mandated that the child support calculation take into account that there was a split custody situation. The method of calculation cannot assume that one parent is the primary residential caretaker of both children once each parent's basic or net obligation has been determined , the trial court must adjust this figure to reflect each parent's proportional share. *Arvey* at 825. That was done in this case.

Petitioner cites *MMG* as holding that there is no other means to avoid application of the standard calculation than by deviation, thereby implying that any application of *Arvey* is a deviation. Petitioner seems to imply that *MMG* vacates *Arvey*. This was not a holding of the *MMG* court. The *MMG* court stated that "*Arvey* only provides a method of determining child support where each parent has primary residential care of one or more child, ... *Arvey* expressly distinguished such situations from the equal residential situation presented here." *MMG*, 159 W n2d 623, at 631. So in fact *MMG* bolsters the argument of the Respondent.

Petitioner's counsel compounds her error by citing RCW 26.19.075 (1) (d) as a framework for analyzing application of the *Arvey* case herein. RCW 26.19.075(1)(d) is the deviation criteria for a residential custody credit. Again, this is a split custody case, not a case involving a request for a residential credit. Its criteria are inapplicable herein. Outside of this section, it can often come to pass that both parents may be of modest economic means and support is established at the minium of $50 per child. This can just be the way formulas work out. Petitioner may be dissatisfied that income is imputed to her and that application of the *Arvey* formula is not to her liking, but that is not a basis for ignoring the formula. And again, she has nowhere in the record shown why income should not be imputed to her. She ignores her own responsibility of providing support to her children.

Petitioner cites *In re the Marriage of Casey* for the proposition that deviation can be justified at any time based on a child's needs. The facts in *Casey* are relevant– the trial court found there was a great disparity in incomes and earning capacities. Here, as far back as 2000, the Oregon court attributed income of $1900 to the Petitioner and $2358 to the Respondent. CP 219. The court in *Casey* relieved the mother of her

support obligation because a learning disability restricted her earning capacity and such an obligation would have reduced her income below poverty level. *Casey* at 665. In this case, the court imputed income to the Petitioner. There was no great disparity in income found by the court, income being imputed to the mother and the father's income consisting of some dividends and unemployment benefits.

F. THE TRIAL COURT DID NOT ERR WHEN IT ORDERED THE MOTHER TO CONTRIBUTE TO POST SECONDARY SUPPORT IN A PROPORTION BASED ON HER IMPUTED INCOME

Petitioner cites *In re Marriage of Schellenberger* for the proposition "a parent obligated to support his or her minor children cannot be deprived of adequate money to meet those obligations in favor of supporting adult children through college. " At the same time, it acknowledged that voluntary unemployment or under employment does not shield a parent from child support obligations. " *Shellenberger* at 80 Wn.App. 71, 81. This case was argued before the revision court. It was pointed out that the obligor in *Shellenberger* was disabled. Id. At 80. There has been no

showing that the Petitioner was disabled. Her income was imputed at minimum wage. She made no showing that payment of post secondary support would impact her minor children.

G. THE TRIAL COURT DID NOT ERR WHEN IT REFUSED TO REQUIRE THE FATHER TO CONTRIBUTE TO THE LEGAL DEFENSE OF THE OLDEST SON

The legal defense costs of the oldest son occurred in 2011-2012, when the son was in the permanent primary care and custody of the Petitioner. CP 1145-1147. The Mother initially misled law enforcement. (WSP report, Exhibit 10, entered 7-22-13) CP 1145-47. The court was correct in ruling that there is no basis in case law or statute for the Respondent to pay for his son's criminal defense fees. No case law is cited by Petitioner in her brief for the proposition that a nonresidential parent should pay for attorney fees for a child who is charged while in the care and custody of the other parent. Petitioner omits the full text of the relevant catch all statute. "The court may exercise its discretion to determine the necessity for and the reasonableness of all amounts order in excess of the basic support obligation." RCW 26.19.080 (4) The court exercised its discretion

to find there was no necessity and it was not reasonable for the Respondent to contribute to these fees. Petitioner cites *In re Yeamans*, but *Yeamans* was a case having to do with the allocation of travel expenses.

The Petitioner demonstrates a great deal of *chutzpah* in making this claim– the WSP report shows she lied to the police and she expects that the trial court herein would not factor in this failure of credibility when it properly exercised its discretion in evaluating all the sworn testimony of the Petitioner?

H. THE TRIAL COURT DID NOT ERR WHEN IT CREDITED THE FATHER FOR HEALTH INSURANCE PREMIUMS

The health insurance premiums were bundled and could not therefore be prorated. His sealed medical premium records verify this.
CP 1296-97.

I. THE TRIAL COURT DID NOT ERR BY CREDITING THE FATHER FOR VOLUNTARY CONTRIBUTIONS TO A ROTH IRA

The father did show a pattern of contributing to a ROTH IRA as evidenced by his sealed financial exhibit of IRA contributions. CP 1298-

1299. Contributions of $5,000 were made in 2011 as well as in 2012. Roth IRA contributions do not appear on tax returns, as they are not deductible. CP 1250-1252.

J. THE COURT DID NOT IMPROPERLY DENY REVISION OF THE CONTEMPT ORDER

(1) The transportation expense was not res judicata.

The point of the contempt motion as to travel expenses was that the father incurred expenses and then the mother refused to provide the children for travel and that prior to the 2010 order she had not made contributions required of her by the 2001 order.

(2) The order of contempt was not erroneous.

The contempt motion specified the orders violated– October 18, 2001 and August 30, 2010 Multnomah County, Oregon, orders. If necessary, the order on file can be amended nunc pro tunc to correct this oversight. Again, the contempt consisted of the mother not providing the children for flights that had already been paid for.

That the mother was found indigent at the start of her action in 2012

does not mean she was indigent and able to reimburse to travel expenses. Nor does it mean she was truly indigent– affidavits of indigency are filed at the outset of an action and opposing parties do not have the opportunity to challenge them.

(3) The court did not erroneously order fees.

RCW 26.18.160 allows a prevailing party to be awarded attorney fees. The father, the obligee, was the prevailing party. There was a finding of bad faith on the part of the mother, the obligor for travel and medical expenses. The father was not the obligor, as the Petitioner alleges.

(4) The order of contempt was ripe for revision .

First of all, Petitioner waived this objection when she brought on the motion for revision.

The mother seeks to blame the clerk for her not receiving the commissioner's order but the blame rests squarely on the mother's prior counsel. The Petitioner states in her brief that the attorney "advised" the court of his withdrawal. She is careful not to state that he had filed a withdrawal notice with the court, for he had not. Accompanying his

11/8/13 declaration is a copy of a August 14, 2014 Notice of Withdrawal that is not conformed. The clerk cannot be said to have failed to be aware of address change information that was not on file. The mother, even though pro se, as evidenced by her numerous pleadings filed pro se in this action, should have expected to receive a conformed copy of the notice of withdrawal showing that the court was aware of the mailing address change or she should have checked the court docket to make sure it had been entered. . This is not an unrealistic expectation . The Petitioner is making not so much unconstitutionality arguments as equitable arguments for extending a legal time deadline. However, an equitable remedy is available to her only under very limited circumstances. "The general policy of our laws is to protect those who are unable to protect themselves, and equitable doctrines grew naturally out of the human desire to relieve (individuals) under special circumstances from the harshness of strict legal rules." *Ames v. Department of L and I*, 176 Wash 509, 30 P.2d 239 (1934) If the Petitioner herein had taken reasonable precautions, she could have filed her motion to revise within the court deadline. She did not, and Judge Hirsch properly denied the motion to revise.

The Petitioner was not denied a constitutional right, her negligence

combined with the apparent negligence of her prior attorney resulted in her not exercising her rights in a timely fashion. To accept the Petitioner's arguments regarding unconstitutionality would be to make meaningless all statutes of limitation, for instance, which are strict dictates. A court cannot ignore a statutory dictate without first finding that the statute is unconstitutional. *Robertson* at 715 citing *Aetna Life Insurance Co. V. Wash. Life and Disability Ins. Guar. Ass'n*, 83 Wn2d 523, 527-28, 520 P.2d 162 (1974). The revision statute, RCW 2.24.050 clearly and unambiguously mandates the party requesting superior court review of a commissioner's order has only 10 days from the date of the commissioner's order to move for revision. *Robertson* at 714. A statutory time limit is either complied with or it is not. *Seattle v. PERC*, 116 Wn.2d 923 at 929, 809 P.2d 1377 (1991).

Furthermore, the Thurston Superior Court rule requires that there be filing and service within 10 days of entry of an order, LSPR 94.14. The Petitioner sent an electronic transmission to Respondent on November 8, 2013, but there was no agreement in place for service by email. CP 1254. Mailed service was received November 11, 2013, well beyond the service period allowed by local rule.

The contempt action was a separate action from the support and post secondary issues, they are not "interlocked." The contempt action could have been brought without a modification action ever having been filed. The case of *Minehart v. Morning Star Boys,* 156 Wn. App. 457, 232 P.2d 591 (2010) had to do with appeal of a pretrial ruling on a motion in limine, a situation readily distinguishable from the case at hand.

It may be that a letter ruling does not have the effect of an order, but in this case an order was entered.

Notice would have been effective had the Petitioner's attorney properly filed a notice of withdrawal or the Petitioner made sure the court was aware she was to be notified of any decision. Nothing prevented her from contacting Administration regularly to find out the status of entry of the order. I did just that.

V. MOTION FOR ATTORNEY FEES

The Petitioner pleads poverty but it turns out that she is a partner in Olympia's Eastside Urban Farm and Garden Center ("Store wants to be a hub for urban gardeners", John Dodge, Page 1, The Olympian, Thursday, April 17, 2014.). This article appeared in Olympia's newspaper of record

after all orders were entered in this case. The store, opened April 5, 2014, is described as being 6000 square feet. It features a classroom with a reference library. Ms. De Vargas is described as a longtime landscaper specializing in edible and eco-friendly landscapes living on an urban farm on a small city lot alive with vegetables, herbs, fruits, miniature goats, quail and chickens. Ms. De Vargas stated to the interviewer that the store's location on Olympia's east side supports an until now underserved population of novice and experienced farmers and gardeners. The store website is eastsideurbanfarmandgarden.com. This is not the first time that the Petitioner's true financial resources were questioned– her oldest son in a declaration submitted to the court recounted how the Petitioner had bartered her landscape services for payment of attorney fees. CP 1261-1263.

Petitioner presents herself to the court as "vastly disadvantaged." As far back as 2000, the Oregon court attributed income to the Petitioner of $1900. CP 219. The same court found that the father's income was $2358. CP 219. It is obvious that the Petitioner does not have income because she refuses to gain full employment or she is hiding her actual income. The Respondent is involuntarily unemployed. The Petitioner apparently,

however, is co-owner of a thriving new business. If she has no resources how did she help establish a substantial new business? She claims her indigency is relevant to the merits of her case.

Per RAP 9.11 there is a basis for the taking of additional evidence on review. Petitioner needs to present facts about her actual wealth and income, the additional evidence probably would change at least a decision regarding attorney fees, this evidence could not have been presented to the trial court, post judgment motions at this point pose an unnecessarily expensive hurdle for the Respondent and it would be inequitable to decide at least the attorney fees issue on the evidence before the trial court. In addition, Respondent is now in the process of obtaining a divorce and the settlement will greatly impact his ability to pay any attorney fees.

If the case is not remanded for hearing, the Petitioner should not be awarded any attorney fees. If any party should receive fees, it is the Respondent. If the case is remanded, the Respondent should be permitted discovery of all the finances and accounts connected with the Petitioner's business and the trial court should be permitted to re-evaluate what the actual resources and income of the petitioner are.

VI. CONCLUSION

This is a family law case wherein the Petitioner is effectively asking for de novo review, a situation appeals courts do not favor. The trial court did not abuse discretion in finding the Petitioner in contempt and making a monetary award to the Respondent. The trial court did not abuse its discretion when it found the Respondent to be involuntarily unemployed, imputed income to the Petitioner, obligated her to pay minority support based on a split custody arrangement and obligated her to pay a fair portion of the oldest son's post secondary expenses. New evidence has arisen as to her financial resources and if the case is to be remanded for any reason, it should be to determine the Petitioner's actual income and resources.

Respectfully submitted on this 20th day of November, 2014

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November 21, 2014

Washington State Court of Appeals
Division II
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Re: DeVargas/Kleymeyer – Brief of Respondent
Thurston County Superior Court No. 12-3-01149-5
Court of Appeals Division II No. 45769.5-II

Dear Clerk:

Please find enclosed with this letter the original and one copy of Brief of Respondent for filing with the Court.

Should you have any questions regarding this matter, please do not hesitate to contact this office at your earliest convenience. Thank you in advance for your prompt attention to this matter.

Very truly yours,

DANA WILLIAMS LAW GROUP, P.S.

Sent without signature to avoid delay

William P. Kogut

WPK/kc
Enclosures

cc: P. Novotny